

FILED

OCT 11 2006

*HARRIS, JAMES L.*

CLERK OF THE  
INDIANA SUPREME COURT  
COURT OF APPEALS  
AND TAX COURT

## ORDER APPROVING AMENDED LOCAL RULES

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Marianne L. Vorhees, Delaware Circuit Court #1, 100 West Washington Street, Muncie, IN 47305-2867; the Hon. Richard A. Dailey, Delaware Circuit Court #2, 100 West Washington Street, Muncie, IN 47305-2868; the Hon. Robert L. Barnet, Jr., Delaware Circuit Court #3, 100 West Washington

Street, Muncie, IN 47305-2869; the Hon. John M. Feick, Delaware Circuit Court #4, 100 West Washington Street, Muncie, IN 47305-2863; the Hon. Wayne J. Lennington, Delaware Circuit Court #5, 100 West Washington Street, Muncie, IN 47305-2827, and to the Clerk of the Delaware Madison Circuit Court, and to post this Order on the Court's website dealing with local rule amendments.

The Clerk of the Delaware Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Court, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 11<sup>th</sup> day of October, 2006.

Randall T. Shepard  
Randall T. Shepard  
Chief Justice of Indiana

STATE OF INDIANA            )  
                                      ) SS:            IN THE DELAWARE CIRCUIT COURT  
COUNTY OF DELAWARE )                    2006 TERM

LR18-AR00-DLR-010

In Re: The Business of the Delaware Circuit Court

**REALLOCATION AND REASSIGNMENT OF CASES**  
**January 1, 2007**

Pursuant to Indiana Rules of Trial Procedure, Trial Rule 81, the Circuit Court of Delaware County hereby submits this Reallocation and Reassignment of Cases for amendment. After approval by the Indiana Supreme Court and after publication and posting for thirty (30) days in the county clerk's office(s) as well as the county clerk's website and on the Indiana Judicial Website, the court will enter an effective date for this rule amendment, as follows:

WHEREAS, the Board of Judges has revised the allocation of case assignments; and

WHEREAS, the Board of Judges is authorized to transfer cases between judges and divisions of the court; and

WHEREAS, the Board of Judges has determined that the efficient administration of justice is better served by a reallocation of certain types of cases.

NOW, THEREFORE, the Board of Judges of the Delaware Circuit Court, by its Presiding Judge, Orders and Directs the following:

(A) That the Clerk of Delaware County, upon direction of a transfer of any case holding a judgment, garnishment, bail bond, or otherwise, shall within said transfer, perfect the necessary changes to provide for the efficient and accurate accounting of all payments made toward any judgment rendered, including, but not limited to, garnishment payments made through a garnishee defendant, the release of judgments, bail bonds or other matters pertaining to said original cause and the transfer therein. In the perfection of the within Order, the Clerk shall notify interested parties to the action and the garnishee defendant.

(B) Cases filed prior to January 1, 2007 will remain in the court of origin, unless otherwise ordered.

(C) Effective January 1, 2007 the limitation of filings will be in place without exception. The allocation of cases will be as follows:

## **Circuit Court No. 1**

Criminal: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C felonies or D felonies-

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), ES, EU, GU, TR (Probate)

## **Circuit Court No. 2**

Criminal: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C or D felonies.

Juvenile: JP (Juvenile Paternity), JD (Juvenile Delinquency), JS (Juvenile Status), JM (Juvenile Miscellaneous), JC (Juvenile CHINS), JT (Juvenile Termination)

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), RS (Reciprocal Support)

## **Circuit Court No. 3**

Criminal: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C or D felonies.

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), MH (Mental Health)

## **Circuit Court No. 4**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), misdemeanors in conjunction with Murder, or A, B, C, or D felonies, class A Misdemeanors and (IF) Infractions.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales) PO (Protective Order), SC (Small Claims)

### **Circuit Court No. 5**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), misdemeanors in conjunction with Murder, or A, B, C, or D felonies, class A Misdemeanors and (IF) Infractions.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous – INCLUDING tax sales), PO (Protective Order), SC (Small Claims), ES, EU, GU, TR (Probate)

- (D) Assignment of cases as heretofore set out will continue to be subject to all Local Rules regarding non-discretionary assignment of felony and misdemeanor cases.
- (E) Assignment of cases, effective January 1, 2007, the Clerk of Delaware County shall perfect the following limitation of filings:
  - 1. (MF) Mortgage Foreclosure: 100 each court, and then commence again (i.e. when each court has 100 foreclosures, then the limitation will begin again until reached with 200, and etc.)
  - 2. (CC) Civil Collections: 200 each court, and then commence again (i.e. when each court has 200 Civil Collections, then the limitation will begin again until reached with 400, and etc.)
  - 3. (DR) Domestic Relations: 100 each court, and then commence again (i.e. when each court has 100 Domestic relations, then the limitation will begin again until reached with 200 and etc.)
  - 4. (PO) Protective Orders: 100 each court, and then commence again (i.e. when each court has 100 Protective Orders, then the limitation will begin again until reached with 200, and etc.)
  - 5. (MI) Miscellaneous: 75 each court, and then commence again (i.e. when each court has 75 Miscellaneous, then the limitation will begin again until reached with 150, then, etc.) Exception: Circuit Court No. 5 will receive all Tax Sale filings regardless of count.

These rules shall not take effect until approval by the Chief Justice of the Supreme Court of Indiana.

Adopted and Respectfully Submitted for Approval, this day 24th day of March, 2006.

**Signed Signatures:**

Marianne Vorhees, Judge  
Delaware Circuit Court No. 1

Richard A. Dailey, Judge  
Delaware Circuit Court No. 2

Robert L. Barnet, Judge  
Delaware Circuit Court No. 3

John M. Feick, Judge  
Delaware Circuit Court No. 4

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF DELAWARE )

IN THE DELAWARE CIRCUIT COURT  
2006 TERM

**LR18-TR79-DLR-0601**

**Local Rules of Civil Practice and Procedure**  
(Amendment to Local Rule 4-2003)

The following local rule regarding selection of special judges where a special judge does not accept a civil case under Trial Rule 79(D), (E), or (F), is now adopted by the undersigned judges of the Delaware Circuit Court, in conjunction with the other Courts of Administrative District 6 as established by Administrative Rule 3(A)(6), and submitted for approval to the INDIANA SUPREME COURT this 24<sup>th</sup> day of March, 2006.

**A. Subdistricts Identified.** To make the most effective use of judicial resources by using close proximity of the judges, Administrative District 6 shall be divided into three (3) subdistricts, the judges in each subdistrict constituting the panel for assignment in the event a *special judge* fails to accept a civil case under Trial Rule 79(D), (E), or (F), except that the following juvenile judges of the whole district shall constitute the panel for assignment in juvenile cases: Honorable Bruce C. Bade of Blackford Circuit Court; Honorable Robert L. Barnet of Delaware Circuit Court No. 3; Honorable Jack L. Brinkman of Madison Superior Court; Honorable Marianne Vorhees of Delaware Circuit Court No. 1; Honorable Jay L. Toney of Randolph Circuit Court; Honorable Richard A. Dailey of Delaware Circuit Court No. 2; Honorable Mary Willis of Henry Circuit Court; and Honorable Michael D. Peyton of Henry Superior Court.

The subdistricts are: Grant, Blackford; Madison, Henry; and, Delaware, Jay and Randolph Counties.

In submitting panels under Trial Rule 79 (F), judges in Delaware County shall name only regular or senior judges from this county.

**B. Assignment - Civil.** Any assignment required shall be made by the Delaware County Clerk on a rotating basis in consecutive order from the following individuals:

1. In Delaware, Jay and Randolph Counties: Honorable Robert L. Barnet; Honorable Marianne Vorhees; Honorable Jay L. Toney; Honorable Richard A. Dailey; Honorable Wayne J. Lennington; Honorable Joel D. Roberts; Honorable John M. Feick; and Honorable Peter Haviza.

The list of regular judges in the subdistrict containing Delaware County may be supplemented by senior judges or presiding judges of designated courts of the whole district.

In no event shall an individual be chosen whose name was placed on the panel submitted to the litigants under Trial Rule 79 (F).

In those cases where a judge has accepted an out-of-county special judge appointment under Trial Rule 79 (D), (E), and (F), and the case has not been transferred to such judge's court under Trial Rule 79 (M), the court bailiff shall notify the Delaware County Clerk, and such clerk shall exempt such judge from assignment for a case under Trial Rule 79 (H).

**C. Annual Review.** This local rule shall be subject to annual review by the regular judges of this administrative district.

**D. Ineligibility.** In the event no judge is eligible to serve as special judge in a case, or special circumstances warrant selection of a special judge by the INDIANA SUPREME COURT, the Delaware County Clerk shall certify this fact to the INDIANA SUPREME COURT for the appointment of a special judge, pursuant to Trial Rule 79 (K).

**E. Limitation of Certain Cases.** In the event a judge is not eligible to serve in a case, or circumstances warrant selection of a special judge or the transfer of a cause within the county, any court in this county having reached the limitation of filings as written in the Reallocation and Reassignment of Cases for the specified civil matters, that particular judge shall be excluded from the panel or transfer, whichever the case may be. Those cases with limitation are as follows:



1. (MF) Mortgage Foreclosure: 100 each court, and then commence again (i.e. when each court has 100 foreclosures, then the limitation will begin again until reached with 200, and etc.)
2. (CC) Civil Collections: 200 each court, and then commence again (i.e. when each court has 200 Civil Collections, then the limitation will begin again until reached with 400, and etc.)
3. (DR) Domestic Relations: 100 each court, and then commence again (i.e. when each court has 100 Domestic relations, then the limitation will begin again until reached with 200 and etc.)
4. (PO) Protective Orders: 100 each court, and then commence again (i.e. when each court has 100 Protective Orders, then the limitation will begin again until reached with 200, and etc.)
5. (MI) Miscellaneous: 75 each court, and then commence again (i.e. when each court has 75 Miscellaneous, then the limitation will begin again until reached with 150, then, etc.) Exception: Circuit Court No. 5 will receive all Tax Sale filings regardless of count.

These rules shall not take effect until approval by the Chief Justice of the Supreme Court of Indiana.

Adopted and Respectfully Submitted for Approval, this 21<sup>st</sup> day of March, 2006.

**Signed Signatures:**

Marianne Vorhees, Judge  
Delaware Circuit Court No. 1

Richard A. Dailey, Judge  
Delaware Circuit Court No. 2

Robert L. Barnet, Judge  
Delaware Circuit Court No. 3

John M. Feick, Judge  
Delaware Circuit Court No. 4

Wayne J. Lennington, Presiding Judge  
Delaware Circuit Court No. 5

## Delaware County Caseload Allocation Plan

### RECOMMENDATION:

It is my recommendation that the Delaware County caseload plan be approved as currently submitted under the condition that it be re-evaluated by Delaware County judges and State Court Administration one year after implementation. Delaware courts have decided to utilize "filing caps" on specific case types in order to reduce the utilization variance between the circuit courts. Using the submitted plan in conjunction with 2005 data, the utilization variance between these courts is estimated at 0.45 (see Table 1). While this utilization variance still exceeds maximum variance of 0.40 (set forth in Administrative Rule 1), the plan shows a concerted effort to reduce the utilization variance that, in 2004, was reported to be 1.03. Additionally, there are difficulties in predicting how cases will be filed once filing caps are implemented. Therefore, it is my recommendation that the submitted plan be approved with the corollary that it is to be reviewed at the end of one year and resubmitted if the utilization variance exceeds 0.40 points.

**Table 1:** Estimated Weighted Caseload for Delaware County Circuit Courts under Proposed Plan (based upon cases filed in 2005)

	Circuit 1	Circuit 2	Circuit 3	Circuit 4	Circuit 5	County Average
Total Actual Minutes:	112,826	160,086	81,289	133,661	136,386	
Projected Need (year)	1.40	1.99	1.01	1.66	1.69	7.74
Actual Have:	1.3	2.4	1.2	1.3	1.4	7.60
Projected Utilization:	1.08	0.83	0.84	1.28	1.21	1.02

### PROCESS:

Calculation of the weighted caseload impact under Delaware County's proposal was done using the following steps:

1. The number of cases filed in Delaware County Circuit courts in 2005 was taken from the AS 400 database.
2. Rules pertaining to the filing of certain case types were then extracted from Delaware County's proposed caseload plan and applied to these numbers.
3. In some cases, assumptions had to be made in order to calculate weighted caseloads under the proposed plan. These assumptions are documented in the next section.

For a detailed breakdown of the calculations for each case type please see Appendix A.

(over)

## **ASSUMPTIONS:**

It was necessary to make certain assumptions in calculating the anticipated WCL

- In some cases, the State Court Administration does not track cases to the level of detail described in the plan.
- In criminal cases, where no caps will be imposed, it was assumed that cases would be filed among the courts in the same proportion that they were in 2005.
- For case types in which a filing cap will be imposed, the remainder of cases were distributed in the proportion that they were filed in 2005 when no filing caps were imposed.

Kris Suthers  
Court Analyst  
5/3/2006

# Delaware County

Circuit	
Total/Actual Minutes:	112826
Actual Need (to date):	1.40
Quarters Counted:	4
Projected Need (year):	1.40
Actual Have:	1.3
Projected Utilization:	1.0763

Superior	
Total Actual Minutes:	160086
Actual Need (to date):	1.99
Quarters Counted:	4
Projected Need (year):	1.99
Actual Have:	2.4
Projected Utilization:	0.8272

Court 3	
Total Actual Minutes:	81289
Actual Need (to date):	1.01
Quarters Counted:	4
Projected Need (year):	1.01
Actual Have:	1.2
Projected Utilization:	0.8400

Court 4	
Total Actual Minutes:	133661
Actual Need (to date):	1.66
Quarters Counted:	4
Projected Need (year):	1.66
Actual Have:	1.3
Projected Utilization:	1.2750

Court 5	
Total Actual Minutes:	136386
Actual Need (to date):	1.69
Quarters Counted:	4
Projected Need (year):	1.69
Actual Have:	1.4
Projected Utilization:	1.2081

County Summary (All Courts)	
Projected Need:	7.74
Actual Have:	7.60
Projected Utilization:	1.0186

Type	Weight	Court 1		Court 2		Court 3		Court 4		Court 5		Total Cases	Projected Minutes
		Cases	Proj. Min.	Cases	Proj. Min.	Cases	Proj. Min.	Cases	Proj. Min.	Cases	Proj. Min.		
Capital	2649	0	0	0	0	0	0	0	0	0	0	0	0
MR	453	1	453	1	453	0	0	2	906	4	1812	8	3624
CF	155	0	0	0	0	0	0	0	0	0	0	0	0
FA	420	8	3380	11	4620	19	7980	13	5460	15	6300	66	27720
FB	260	26	6760	28	7280	17	4420	26	6760	20	5200	117	30420
FC	210	45	9450	37	7770	33	6930	46	9660	44	9240	205	43050
FD	75	94	7050	73	5475	71	5325	229	17175	255	19125	722	54150
PC	0	0	0	0	0	0	0	0	0	0	0	0	0
CM	40	9	360	0	0	1	40	11	440	1	40	22	880
MC	18	10	180	1	18	2	36	5	90	3	54	21	378
IF	2	0	0	0	0	0	0	1	2	1	2	2	4
OV	2	0	0	0	0	0	0	0	0	0	0	0	0
JC	111	0	0	262	29082	0	0	0	0	0	0	262	29082
JD	60	0	0	255	15300	0	0	0	0	0	0	255	15300
JS	58	0	0	158	9164	0	0	0	0	0	0	158	9164
JP	82	0	0	304	24928	0	0	0	0	0	0	304	24928
JM	12	0	0	294	3528	0	0	0	0	0	0	294	3528
JT	194	0	0	56	10864	0	0	0	0	0	0	56	10864
CP	106	0	0	0	0	0	0	0	0	0	0	0	0
PL	121	57	6897	26	3146	23	2783	57	6897	67	8107	230	27830
MF	23	133	3059	101	2323	131	3013	128	2944	186	4278	679	15617
CC	26	233	6058	204	5304	252	6552	251	6526	261	6786	1201	31226
CT	118	61	7198	26	3068	45	5310	14	1652	9	1062	155	18290
SC	13	0	0	0	0	0	0	2455	31915	2124	27612	4579	59527
DR	185	136	25160	104	19240	102	18870	144	26640	122	22570	608	112480
RS	31	0	0	47	1457	0	0	0	0	0	0	47	1457
MH	37	0	0	0	0	365	13505	0	0	0	0	365	13505
AD	53	33	1749	2	106	0	0	24	1272	3	159	62	3286
AH	53	0	0	0	0	0	0	0	0	0	0	0	0
EU	85	239	20315	0	0	0	0	0	0	0	0	0	0
GU	93	69	6417	0	0	0	0	0	0	76	6460	315	26775
TR	40	35	1400	0	0	0	0	0	0	18	1674	87	8091
PO	37	0	0	0	0	0	0	226	8362	230	8510	35	1400
MI	87	80	6960	80	6960	75	8525	80	6960	85	7395	456	16872
TOTAL		1269	112826	2070	160086	1136	81289	3712	133661	3524	136386	1711	624248

**New Cases filed 2005**

[illegible]